IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.W.P. No.1742 of 1983
Date of Decision:05.09.2007

The Managing Director, Punjab Dairy Development Corporation, Chandigarh

.....Petitioner

Vs.

Harcharan Singh and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. R.S.Mittal, Senior Advocate with
Mr. Atul Gaur, Advocate for the petitioner.

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Rajesh Bindal, J.

The prayer made in the present petition is to the quashing of order dated 30.10.1982 passed by the Additional Labour Court, Union Territory, Chandigarh whereby the respondent- workman had been ordered to be reinstated with backwages.

Briefly, the facts are that the respondent- workman joined service with the petitioner in the year 1970 as a Chargeman. Thereafter, he was promoted as Foreman and Shiftman. On certain allegations of insubordination, an inquiry was instituted against the respondent- workman which culminated into a finding against the respondent- workman. Relying upon the findings recorded in the inquiry report vide order dated 16.3.1979 on account of misconduct committed by the respondent- workman, he was terminated from service. Aggrieved by the order of termination, the respondent- workman raised an industrial dispute and the matter was referred to the Labour Court. Labour Court, on a consideration of the entire issue, specially the inquiry report and the process during the course of inquiry came to a finding that the inquiry was nothing else but an eye-wash. It was held with pre-determined mind to hold the respondent- workman guilty. Discrepancies in the dates of hearing, during the course of inquiry was also found. Even it could not be proved in evidence that as to what unparliamentary language was used by the respondent- workman. Under these circumstances, the learned Additional Labour Court, Union Territory,

Chandigarh held that termination of the services of the respondent-workman was not in accordance with law. He was directed to be reinstated with backwages which was found to be fictional since respondent- workman had already attained the age of superannuation. At the time of motion hearing, the petitioner was directed to pay the backwages to the respondent-workman which have been paid.

Heard learned counsel for the petitioner. No one has appeared on behalf of the respondent- workman

Counsel for the petitioner submitted that the findings recorded by the Labour Court are totally erroneous as due inquiry was held against the respondent- workman and opportunity of hearing was afforded to him. He further submitted that the Labour Court should not have sat in judgment over that of Inquiry Officer as a Court of appeal. However, I do not find any merit in this submission of learned counsel for the petitioner. All what has been found by the Labour Court is that the process of inquiry reflected that it was merely an eye wash. The Inquiry Officer went on to interpret the material on record as it suited the management. There were discrepancies in the dates of hearing given to the workman and on the file. No evidence was there as to what unparliamentary language was used by him.

Under these circumstances, I am of the opinion that the learned Labour Court had rightly concluded that the termination of the respondent-workman was not in conformity with law. Accordingly, I do not find any merit in the present petition and the same is dismissed.

September 05, 2007 **(RAJESH BINDAL)**
renu **JUDGE**